

US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: December 14, 2006
Comment Deadline: January 12, 2007
Corps Action ID #: SAW-2006-20400-253

The Wilmington District, Corps of Engineers (Corps) has received an application from West Landing Development seeking After-the-Fact Department of the Army authorization for permanent impacts to 0.14-acre of jurisdictional wetlands, 0.21-acres of stream channel (pre-1996 impact) and 564 linear feet of perennial streams; and temporary impacts to 0.10-acre of forested wetlands and 100 linear feet of intermittent streams associated with the construction of West Landing, a residential subdivision in Sanford, Lee County, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at www.saw.usace.army.mil/wetlands

Applicant:

West Landing Development
Attn: Mr. Rex Brown
Post Office Box 1241
Sanford, NC 27331

Agent:

ECS Carolinas, LLP
Attn: Mr. Tom Rouse
9001 Glenwood Avenue
Raleigh, NC 27617

Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures Section 404 of the Clean Water Act

Location

West Landing Subdivision is a 127.5-acre property located off Wicker Street in Sanford, Lee County, North Carolina. The project site contains five unnamed perennial streams, one unnamed intermittent stream, and one jurisdictional wetland all of which drain to

Persimmon Creek in the Cape Fear River Basin (8-Digit Cataloging Unit 03030004). Latitude and Longitude in Decidegrees of the site is 35.4615 N. and 79.2168 W.

Existing Site Conditions

The property is currently being developed with 217 single-family lots, which are being constructed in four phases. Roadway paving and home construction are already complete in Phases I and II. Roadway paving is complete, and home construction is nearly complete in Phase III. Ground clearing, partial paving and limited home construction have begun in Phase IV. Sewer and power easements have been constructed on the site.

The project site contains five unnamed perennial streams, one unnamed intermittent stream, and one jurisdictional wetland all of which drain to Persimmon Creek in the Cape Fear River Basin. A U.S. Army Corps of Engineers (Corps) jurisdictional determination has been completed for the site which verifies these aquatic features.

Impacts to the jurisdictional features listed above have occurred for the construction of all four Phases.

Applicant's Stated Purpose

The project purpose is to complete construction of a residential subdivision to satisfy a demand for single-family homes.

Project Description

The activity involved the construction of a residential subdivision. This includes all roadways, utility lines, stormwater features, and amenities. Since impacts to jurisdictional features have occurred without a Section 401 or 404 permit, a Notice of Violation was issued by the North Carolina Division of Water Quality on December 13, 2005, and a Notice of Unauthorized Activity/Permit Noncompliance was issued by the Corps on February 28, 2006. An After-the-Fact Individual DA Permit application was completed by the applicant to alleviate the violations and satisfy the stipulations of the Clean Water Act. Listed below is a break-down of the impacts associated with each Phase of the subdivision. Each of the stream crossings listed below resulted in impact by means of a culvert for roadway access.

Phase I of the subdivision resulted in 55 linear feet of impact to a perennial stream needed to access the property. Five separate stream crossings are associated with Phase II of the subdivision which resulted in 219 linear feet of impact. In addition, two perennial streams were converted to an open-water pond to manage stormwater for this phase of the subdivision. Flooding from these ponds resulted in 1,380 linear feet of stream impact. Phase III incurred three stream crossings for a total length of 140 linear feet. Additional stream impacts completed by individual lot owners resulted in 250 linear

feet of impact. Phase IV has five stream crossings, four of which are for a total length of 285 linear feet. The fifth crossing is being redesigned for cul-de-sac use, with stream restoration in progress for the 100 linear feet of original stream impact. An additional 0.14-acre of permanent wetland impact has occurred in association with one of the stream crossings. Temporary impacts to 0.10-acre of wetland occurred during the initial layout of Phase IV and are currently being restored.

Several of the impacts listed above occurred prior to 1996 including the construction of the pond and four roadway crossings. Prior to 1996, stream impacts were assessed on an acreage basis rather than per linear foot. When taking this into account, along with reducing the total impacts due to redesign/restoration (100 linear feet) and impacts from private lot owners (250 linear feet), the total permanent impacts to streams for this application result in 0.21-acres (pre 1996) and 564 linear feet (post 1996).

To mitigate for impacts to jurisdictional features, the applicant has proposed payment into the North Carolina Ecosystem Enhancement Program (NCEEP).

Other Required Authorizations

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice combined with appropriate application fee at the North Carolina Division of Water Quality central office in Raleigh will constitute initial receipt of an application for a 401 Water Quality Certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention: Ms Cyndi Karoly by January 3, 2007.

Essential Fish Habitat

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that the proposed project will not adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

Cultural Resources

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

Endangered Species

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps has determined pursuant to the Endangered Species Act of 1973, that the proposed project will have no effect on federally listed endangered or threatened species or their formally designated critical habitat.

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

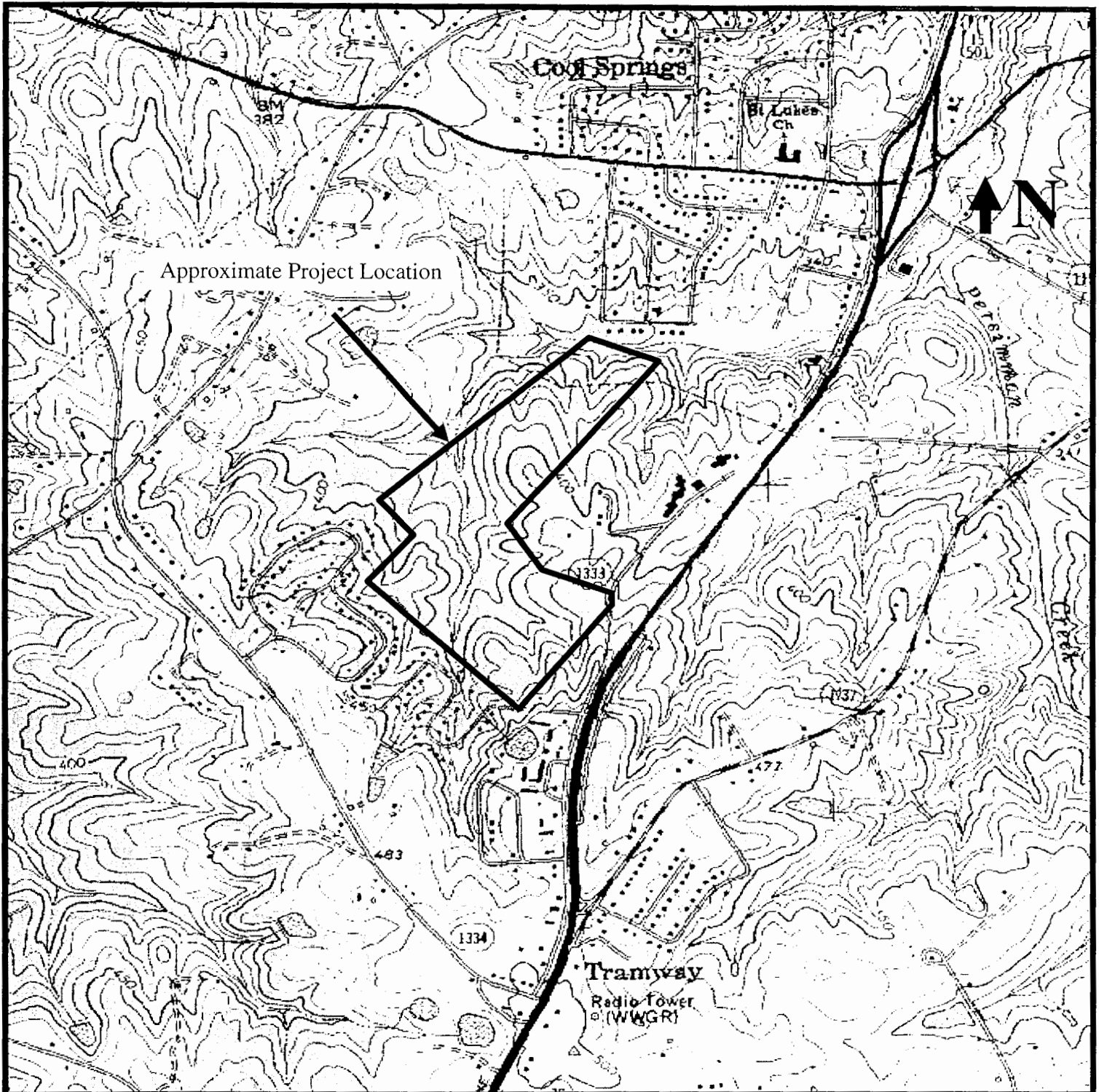
Commenting Information

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidate State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for

this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, January 12, 2007. Comments should be submitted to Monte Matthews, Raleigh Regulatory Field Office, 6508 Falls of Neuse Road, Suite 120, Raleigh, North Carolina 27615.



Engineering
Consulting
Services,
LTD.

Not to Scale

Approximate Vicinity Map
USGS Sanford Quad Topographic Map

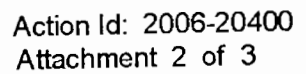
West Landing Subdivision
Sanford, North Carolina

Figure No.
1

ECS Project #
14552

RALEIGH REGULATORY FIELD OFFICE

THIS PLAN WAS CREATED FOR
ILLUSTRATIVE PURPOSES ONLY.
PARCELS AND STREAM
LOCATION TAKEN FROM CITY OF
SANFORD TAX AND
TOPOGRAPHIC MAPS.



RECEIVED

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JOB #

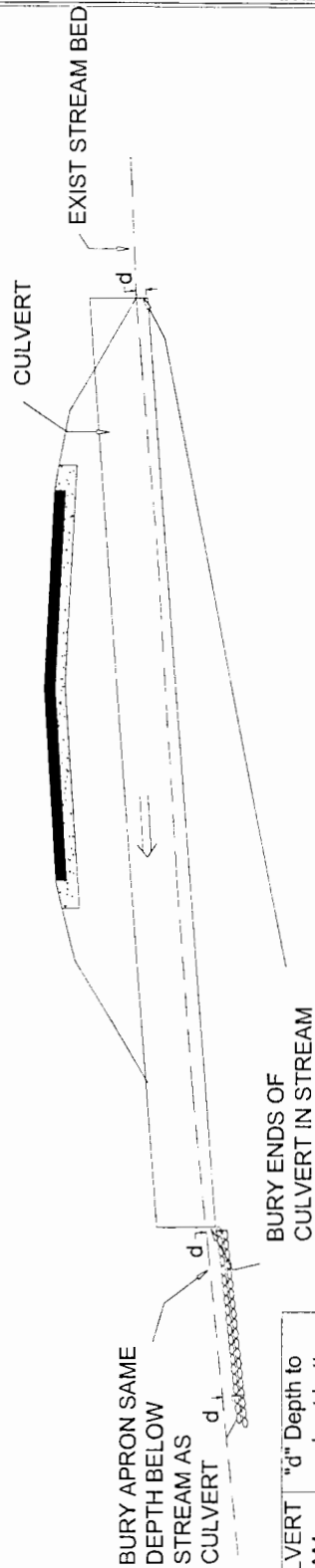
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SCALE: NTS

DATE: 11/14/06

REVISIONS:

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TYPICAL CULVERT INSTALLATION-STREAM